

OGC HAS REVIEWED.

Personnel Director

3 August 1950

Legal Staff

Status Determination of New Employees

1. In your memorandum of 27 July 1950, you have indicated an apparent contradiction in the five-day waiting period required for the medical findings and the prohibition against hiring physically defective employees. You stated that the Chief, Medical Staff, has been informed that "anyone disqualified for appointment or continued employment has no status and consequently no rights."

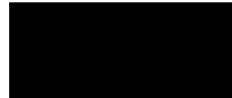
2. The Federal Personnel Manual, Chapter M1-3 contains the following statement in paragraph (1) under "Persons Who May Issue Certificates:" "If upon reporting for duty he is found ineligible because of physical defects he cannot be appointed." After reading further under M1-5 ("Time of Examination") it states that medical certificates must, if at all possible, be obtained and determination made as to physical fitness before the person is placed in a duty status. "When it is impossible to obtain a physical examination before entrance on duty, it is understood that agencies will make certain that the examination is secured at the earliest practicable date. However, where the place of employment is at a distance from appointee's residence, the examination must be secured and determination as to physical fitness made before he is required to undergo any expense for travel to his duty station."

3. Provisions for X-ray are found in the Manual under "Additional Medical Examinations." On page M1-11 it says: "The X-ray may precede appointment if no loss of compensation is suffered by the appointee. Otherwise, the appointee should be placed on duty prior to the X-ray examination, but the examination should be requested immediately after appointment, wherever possible, and in any event not later than five days after entry on duty. The agency need take no action to furlough or separate the employee until the Civil Service Commission has studied the X-ray report and notified it of the action to be taken."

4. The language contained in the manual seems to be fairly explicit, and it would appear that normally all necessary physical examinations (including X-rays) should be completed, if possible before the employee is placed on duty. However, where the need for his services is immediate and carries some degree of urgency the appointment could be completed subject to evaluation of the X-rays and other necessary material. The fact that the Agency "need take no action to furlough

or ~~separate~~ the employee" (our emphasis) until the evaluation is made, would certainly seem to indicate that the employee is in a full status and entitled to all the rights and benefits of his position pending a determination that he is unacceptable.

STATINTL



cc: Subject
Chrono

CR: 341 Medical Care

STATINTL

:hw